

CEILING-PRICED COMMERCIAL SERVICES AGP [FAR 52.232-7]

- (a) General. The Contractor shall submit invoices to JPL as indicated in the Schedule and discussed below. Payment to the Contractor for hours worked by the Contractor employees listed in the Schedule (or if there is no listing of personnel by name in the Schedule, then by personnel of the classification listed in the Schedule) will be based on the actual hours worked by such personnel in accordance with paragraph (b) below. Reimbursement of the Contractor for travel and related expenses or allowances shall be allowable only if stated in the Schedule and shall be subject to the provisions below.
- (b) Timekeeping.
 - (1) For work to be performed for JPL at a JPL location, the Contractor is responsible for accurately tracking and recording the hours and days of the workweek and the hours of the workshift that are worked by its employees. Working time will be calculated in tenth-of-an-hour increments for each full six minutes beginning with the designated or approved shift starting time or the actual starting time, whichever is later. Mealtime deductions shall be appropriately determined by the Contractor. The Contractor is responsible for establishing a process that monitors its personnel leaving JPL premises during the workday.
 - (2) For work performed at a location other than JPL, the Contractor is responsible for accurately tracking and recording the hours and days of the workweek and the hours of the workshift that are worked by its employees. Unless otherwise provided for in this Contract, the Contractor shall maintain timekeeping records in accordance with form JPL 1725, "Minimum Timekeeping Requirements for Time-and-Material or Labor-Hour Type Procurements to be Performed at Off-Lab Facilities."
- (c) Hourly Rate.
 - (1) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule or Contract Work Order by the number of direct labor hours performed. The rates shall include wages, indirect costs, general and administrative expense, and profit. Working time will be calculated in tenth-of-an-hour increments for each full six minutes beginning with the designated or approved shift starting time or the actual starting time. Meal time deductions will be as determined by the Contractor. At the end of the day, working time will not be computed beyond the end of the designated approved shift unless overtime is authorized. Invoices shall be submitted weekly, (unless another interval is specified in the Schedule) to the attention of the JPL Accounting Section. Invoices shall contain the accuracy representation as required by JPL, and shall be submitted by one of the authorized representatives specified in the Schedule. Promptly after receipt of each invoice, the Institute shall, except as otherwise provided in this Contract, and subject to the terms of (f) below, pay the invoice as approved by JPL.
 - (2) Unless otherwise prescribed in the Schedule, the Institute shall withhold five percent of the amounts due under this Contract for commercial services, or such other amount which the Institute considers necessary to protect the interest of the Institute and the Government, but the total amount withheld shall not exceed \$50,000. The amounts withheld shall be retained until the execution and delivery of a release by the Contractor as provided in paragraph (g) below.
 - (3) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis.
 - (d) Other Direct Costs. Allowable costs for other direct costs authorized in the Schedule shall be determined by JPL in accordance with Subpart 31.2 of FAR in effect on the date of this contract and any corresponding implementing or supplementing provisions in the NFS. The Contract shall support all other direct costs claimed by submitting copies of paid invoices or by other substantiation acceptable to JPL.
 - (e) Ceiling Price. The Institute shall not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule in the absence of a statement in a Unilateral Modification, or other Contract modification, increasing the ceiling price.

(f) **Audit.** At any time before final payment under this Contract, JPL may audit or have audited the invoices or vouchers and substantiating material. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices or vouchers, that are found by JPL not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice", and upon compliance by the Contractor with all terms of this Contract (including, without limitation, terms of paragraphs (g) and (h) below), the Institute shall promptly pay any balance due the Contractor. The completion invoice or voucher shall be submitted by the Contractor as promptly as practicable following completion of the work under this Contract, but in no event later than six months (or such longer period as JPL may approve in writing) from the date of completion.

(g) **Release.** The Contractor, and each assignee under an assignment entered into under this Contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this Contract, a release discharging the Institute, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this Contract, subject only to the following exceptions:

- (1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.
- (2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this Contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to JPL not more than six years after the date of the release or the date of any notice to the Contractor that the Institute is prepared to make final payment, whichever is earlier.
- (3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Institute or the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this Contract relating to patents.

(h) **Refunds.** The Contractor agrees that any refunds, rebates, or credits (including any related interest) accruing to or received by the Contractor or any assignee, that arise under the other direct costs portion of this Contract and for which the Contractor has received reimbursement, shall be paid by the Contractor to the Institute. The Contractor and each assignee, under an assignment entered into under this Contract and in effect at the time of final payment under this Contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this Contract, an assignment to the Institute of such refunds, rebates, or credits (including any interest) in form and substance satisfactory to JPL.